

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

David L. Green,

Case No. 3:23-cv-921

Petitioner

v.

ORDER OF TRANSFER

Warden Harold May,

Respondent

Pro se petitioner David L. Green, a state prisoner, has filed this action seeking a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 4). Green challenges his 2012 conviction in the Summit County Court of Common Pleas, case number CR-11-04-1058 (“Criminal Case”).

Green previously filed a Section 2254 petition in this Court challenging his conviction in the Criminal Case. In 2013, he filed for habeas corpus relief, asserting three grounds for relief. This Court denied the petition and dismissed the action. *See Green v. Clipper*, No. 5:13CV2029, 2015 U.S. Dist. LEXIS 71762 (N.D. Ohio Jan. 9, 2015), report and recommendation adopted, No. 5:13-cv-02029, 2015 U.S. Dist. LEXIS 71764 (N.D. Ohio June 3, 2015).

In this action, Green brings a Section 2254 habeas petition challenging his conviction in the Criminal Case once again. (*See* Doc. No. 4). Green states that he has “given the State of Ohio three opportunit[ies] to correct this miscarriage of justice,” but the State has “refused to correct this plain error” previously brought to its attention. (*Id.* at 1-2).

Title 28 U.S.C. § 2244(b)(3)(A) provides that before a second or successive habeas corpus application under Section 2254 is filed in district court, the applicant must move in the appropriate court of appeals for an order authorizing the district court to consider the application. *Keith v. Bobby*,

618 F.3d 594, 599-600 (6th Cir. 2010). When a second or successive Section 2254 petition is filed in the Northern District of Ohio without authorization by the Sixth Circuit Court of Appeals, the district court must transfer the petition to the Sixth Circuit. *See In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

This Section 2254 petition is the second or successive petition filed by Green challenging his 2012 conviction in the Criminal Case. Accordingly, Green's application to proceed in this action *in forma pauperis* (Doc. No. 1) is granted, and pursuant to 28 U.S.C. § 1631 and *In re Sims*, 111 F.3d 45 (1997), this action is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge